

## **REMARKS**

By this paper, claims 154-156 are added, and no claims are amended or cancelled. Accordingly, claims 1-134 and 136-156 are all of the pending claims. Claims 11-13, 17-22, 48, 52-57, 82, 83, 99, 101, 113, 1114, 130, and 132 have been withdrawn from examination. Support for the amendments presented above is provided throughout the specification and claims as originally filed. Applicants expressly reserve the right to prosecute the subject matter of the unamended and/or cancelled claims, or any other subject matter supported by the Specification, in one or more continuation applications. In view of the foregoing amendments and the following remarks, reconsideration and allowance of all the pending claims is anticipated.

### ***Claim Rejections – 35 USC § 103***

Claims 1-10, 14-16, 23-45, 49-51, 58-81, 84-98, 100, 102-112, 115-129, 131, 133, 134, and 136-146 currently stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5,803,500 to Mossberg ("Mossberg") in view of U.S. Patent No. 5,909,673 to Gregory ("Gregory"), and in further view of U.S. Patent No. 5,845,265 to Woolston ("Woolston"); and claims 149-153 currently stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Mossberg in view of Gregory, in further view of Woolston, and in still further view of U.S. Patent No. 6,112,181 to Shear *et al.* ("Shear"). These rejections are traversed at least on the grounds that the Examiner has failed to demonstrate that the proposed combination of Mossberg, Gregory, and/or Woolston teaches or suggests all of the features of the claimed invention.

#### **A. Claims 1-10, 14-16, And 23-35.**

The Examiner has failed to set forth a *prima facie* case of unpatentability with respect to claims 1-10, 14-16, and 23-35. The Examiner has failed to establish that all of the features of the claimed invention are taught or suggested by the proposed combination of Mossberg, Gregory, and Woolston.

For example, claim 1 recites *inter alia* the following features, which are not taught or suggested in the sections of Mossberg, Gregory, and/or Woolston relied on in the Office Action:

...providing an auction posting module for enabling one or more businesses to post on the web-site at least one item for auction, including **restrictions comprising valid dates and times for use of the at least one item, the restrictions corresponding to a non-peak demand period of a business to reduce excess capacity of that business during the non-peak demand period;** [and]

...providing the at least one item to a purchaser or the auction winner, wherein the item is redeemable for the service from a corresponding one of the one or more businesses during the non-peak demand period for a discount from the predetermined price....

The Office Action acknowledges that Mossberg does not teach or suggest these features [pp. 6-7]. The Office Action alleges that Gregory addresses this acknowledged deficiency of Mossberg [*id.*]. In particular, the Office Action relies on column 6, lines 54-67. At best, this portion of Gregory only discusses adjusting the location of a coupon to increase business at a location that is not doing well [the Response filed November 12, 2009, pp. 33-37]. There is no teaching whatsoever of restrictions to date and time that correspond to a "non-peak demand period of a business" [*id.*].

In addressing Applicants' position that Gregory does not teach the features acknowledged to be missing from Mossberg, the Examiner states:

Gregory discloses one or more restaurants create/customize coupon/certificate for specific locations. Further Gregory discloses if a particular restaurant location is not doing well a coupon can be distributed that provides a greater discount at that restaurant location than the discount provided at other locations. Further Gregory discloses that the coupon/certificate would have include [sic] specific details like the amount of the discount on the coupon, the days and hours the coupon is valid, the location at which the coupon/certificate is valid, the expiration date of the coupon, and the product to which the coupon/certificate applies. Pages 3-4 (citations omitted).

The Examiner does not propose any other modifications of Mossberg or Gregory with respect to these features, beyond what is expressly taught in Gregory [*see, e.g.,* the Office Action, pp. 3-4 and 6-7]. Even if the Examiner's own characterization of the teachings of the cited portions of Gregory (c. 6, ll. 54-67) were accurate (Applicants do not acquiesce on this point), Gregory would still not address the acknowledged deficiency of claim 1.

The Examiner alleges that Gregory states the coupons include days and hours that a coupon is valid. The Examiner also alleges that Gregory separately teaches the locations at which coupons are valid can be adjusted to encourage additional business at locations that are not doing well. The cited section of Gregory does not teach that the days and/or hours that coupons are valid should be shifted to encourage additional business at days and/or hours when business is slow. The Examiner does not even allege that Gregory provides such a teaching. Instead, the Examiner is apparently only relying on the teaching in Gregory of assigning locations to coupons to stimulate business at depressed locations, without further modification. This constitutes legal error because the claimed features for which the cited section of Gregory is being relied on include **"restrictions corresponding to a non-peak demand period of a business to reduce excess capacity of that business during the non-peak demand period."** not restrictions to shift business to previously depressed locations.

The sections of Woolston relied on in the Office Action do not address the deficiency of the proposed combination of Mossberg and Gregory with respect to the features of claim 1 reproduced above. Therefore, the Examiner has failed to demonstrate that the proposed combination of Mossberg, Gregory, and Woolston teach or suggest all of the features of claim 1. For at least this reason the rejection of claim 1 under § 103 must be withdrawn.

Claims 2-10, 14-16, And 23-35 depend from claim 1. As such, the rejection of claims 2-10, 14-16, And 23-35 based on the proposed combination of Mossberg, Gregory, and Woolston should be withdrawn due to the dependency of these claims, as well as for the features that they recite individually.

**B. Claims 36-45, 49-51, And 58-70.**

The Examiner has failed to establish that all of the features of claims 36-45, 49-51, and 58-70 are taught or suggested by the proposed combination of Mossberg, Gregory, and Woolston. For example, independent claim 36 recites *inter alia* the following features, which are not taught or suggested in the sections of Mossberg, Gregory, and/or Woolston relied on in the Office Action:

...a business module for enabling one or more businesses to post on the web-site at least one item for auction, including restrictions comprising valid dates and times for use of the at least one item, **the restrictions corresponding to a non-peak demand period of a business to reduce excess capacity of that business during the non-peak demand period;** [and]

...an award module for providing the at least one item to a purchaser or the auction winner, wherein the item is redeemable for the service from a corresponding one of the one or more businesses during the non-peak demand period at a discount from the predetermined price....

These features correspond generally to the features of claim 1 discussed above. At least for the reasons presented above, the proposed combination of Mossberg, Gregory, and Woolston does not teach or suggest these features. For at least this reason the rejection of claim 36 under § 103 must be withdrawn.

Claims 37-45, 49-51, and 58-70 depend from independent claim 36. As such, the rejection of claims 37-45, 49-51, and 58-70 based on the proposed combination of Mossberg, Gregory, and Woolston should be withdrawn due to the dependency of these claims, as well as for the features that they recite individually.

**C. Claims 71-81, 84-98, And 100.**

The Examiner has failed to establish that all of the features of claims 71-81, 84-98, and 100 are taught or suggested by the proposed combination of Mossberg, Gregory, and Woolston. For example, independent claim 71 recites *inter alia* the following features, which are not taught or suggested in the sections of Mossberg, Gregory, and/or Woolston relied on in the Office Action:

...providing a web site for enabling one or more businesses to post an offer to auction at least one certificate, the at least one certificate having a predetermined value and being redeemable for services from a corresponding one of the one or more businesses, including **restrictions comprising valid dates and times for use of the at least one certificate, the restrictions corresponding to a non-peak demand period of a business to reduce excess capacity of that business during the non-peak demand period;** [and]

...providing the at least one certificate to a purchaser or the action winner, the certificate comprising identification of the corresponding one of the one or more businesses, the predetermined value of the certificate, a unique certificate identifier and user identification information and redeemable for service from the one or more business during the non-peak demand period for a discount from the predetermined price....

These features correspond generally to the features of claim 1 discussed above. At least for the reasons presented above, the proposed combination of Mossberg, Gregory, and Woolston does not teach or suggest these features. For at least this reason the rejection of claim 71 under § 103 must be withdrawn.

Claims 72-81, 84-98, and 100 depend from independent claim 71. As such, the rejection of claims 72-81, 84-98, and 100 based on the proposed combination of Mossberg, Gregory, and Woolston should be withdrawn due to the dependency of these claims, as well as for the features that they recite individually.

#### **D. Claims 102-112, 115-129, And 131.**

The Examiner has failed to establish that all of the features of claims 102-112, 115-129, and 131 are taught or suggested by the proposed combination of Mossberg, Gregory, and Woolston. For example, independent claim 102 recites *inter alia* the following features, which are not taught or suggested in the sections of Mossberg, Gregory, and/or Woolston relied on in the Office Action:

...an auction posting module for enabling a business to post on the web site an offer to auction at least one certificate, the at least one certificate having a predetermined value and being redeemable for services

from the business, including restrictions comprising valid dates and times for use of the at least one certificate, **the restrictions corresponding to a non-peak demand period of a business to reduce excess capacity of that business during the non-peak demand period;** [and]

...a certificate issuing module for providing the at least one certificate to a purchaser or the auction winning bidder, the certificate comprising identification of the business, the predetermined value of the certificate, specified times for use of the certificate, a unique certificate identifier and user identification information and redeemable for the service from a corresponding one of the one or more businesses during the non-peak demand period for a discount....

These features correspond generally to the features of claim 1 discussed above. At least for the reasons presented above, the proposed combination of Mossberg, Gregory, and Woolston does not teach or suggest these features. For at least this reason the rejection of claim 102 under § 103 must be withdrawn.

Claims 103-112, 115-129, and 131 depend from independent claim 102. As such, the rejection of claims 103-112, 115-129, and 131 based on the proposed combination of Mossberg, Gregory, and Woolston should be withdrawn due to the dependency of these claims, as well as for the features that they recite individually.

#### **E. Claims 133, 134, And 136-152.**

The Examiner has failed to establish that all of the features of claims 133, 134, and 136-152 are taught or suggested by the proposed combinations of Mossberg, Gregory, Woolston, and/or Shear. For example, independent claim 133 recites *inter alia* the following features, which are not taught or suggested in the sections of Mossberg, Gregory, and/or Woolston relied on in the Office Action:

...providing an auction posting module for enabling one or more of the restaurants to post on the web site a listing of at least one discounted gift certificate being offered for sale, including restrictions comprising valid dates and times for use of the at least one discounted gift certificate, **the restrictions corresponding to a non-peak demand period of a restaurant to reduce excess capacity of that restaurant during the non-peak demand period;** and

...providing the at least one discounted gift certificate to a purchaser or the auction winner, wherein the discounted gift certificates are redeemable for the service from a corresponding one of the one or more restaurants during the non-peak demand period for a discount from the predetermined price....

These features correspond generally to the features of claim 1 discussed above. At least for the reasons presented above, the proposed combination of Mossberg, Gregory, and Woolston does not teach or suggest these features. For at least this reason the rejection of claim 133 under § 103 must be withdrawn.

Claims 134 and 136-152 depend from independent claim 133. The sections of Shear relied on in the Office Action do not address the deficiencies of the proposed combination of Mossberg, Gregory, and Woolston with respect to the features of claim 133 reproduced above. As such, the rejections of claims 134 and 136-152 based on the proposed combinations of Mossberg, Gregory, Woolston, and/or Shear should be withdrawn due to the dependency of these claims, as well as for the features that they recite individually.

#### F. Claim 153.

The Examiner has failed to establish that all of the features of claim 153 are taught or suggested by the proposed combination of Mossberg, Gregory, Woolston, and Shear. For example, independent claim 36 recites *inter alia* the following features, which are not taught or suggested in the sections of Mossberg, Gregory, Woolston, and/or Shear relied on in the Office Action:

...a restaurant listing module, the listing module enabling one or more restaurants to post on the web site a listing offering at least one discounted gift certificate for sale according to a cuisine type, zip code, or geographic area parameter, including restrictions comprising valid dates and times for using the at least one discounted gift certificate, **the restrictions corresponding to a non-peak demand period of a restaurant to reduce excess capacity of that restaurant during the non-peak demand period;** [and]

...a certificate issuing module for providing the at least one discounted gift certificate to a purchaser or the

auction winner, wherein the discounted gift certificates are redeemable for the service from a corresponding one of the one or more restaurants during the non-peak demand period for a discount from the predetermined price....

These features correspond generally to the features of claim 1 discussed above. At least for the reasons presented above, the proposed combination of Mossberg, Gregory, and Woolston does not teach or suggest these features. The sections of Shear relied on in the Office Action do not address these features. For at least this reason the rejection of claim 36 under § 103 must be withdrawn.

### ***Newly Added Claims***

Claims 154-156 are newly added. Claims 154-156 are believed to be allowable over the cited references at least because the cited references do not disclose, teach, or suggest all of the features of the claimed invention.

For example, independent claim 154 recites *inter alia* the following features, which are not disclosed, taught or suggested by the cited references:

...obtain[ing] restaurant offers to provide service at a discounted price from individual restaurants, the restaurants comprising a first restaurant, and the restaurant offers comprising a first restaurant offer obtained from the first restaurant, the first restaurant offer specifying (i) times of non-peak demand at the first restaurant for which the first restaurant offer is redeemable, (ii) a cost of the first restaurant offer, (iii) a redemption value of the first restaurant offer, and (iv) a time period during which the first restaurant offer is available for purchase; and

...selectively present[ing] the restaurant offers to the users for purchase based on user profile information associated with the users such that responsive to the first user profile including user profile information indicating correspondence between the first user and the first restaurant offer, the first restaurant offer is automatically presented to the first user.

The cited references do not teach a "restaurant offer specifying [] times of non-peak demand at the first restaurant for which the [] restaurant offer is redeemable" for at



least the reasons set forth above with respect to claim 1. Further, the cited references do not teach or suggest the selective presentation of restaurant offers to users for purchase based on user profile information, as is recited in claim 154. For at least these reasons claim 154 is believed to be allowable over the cited references.

Claims 155 and 156 depend from claim 154. As such, claims 155 and 156 are believed to be allowable over the cited references based on their dependency, as well as for the features that they recite individually.

### **CONCLUSION**

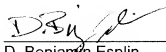
Having addressed each of the foregoing objections and rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is anticipated.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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Respectfully submitted,

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